REMARKS

Claims 1, 2, 5-14 are pending in this case. Reconsideration of the application is respectfully

requested in light of the above amendments and the following remarks.

This amendment is responsive to the Final Office Action mailed August 11, 2004. In that Office

Action, claims 1, 2, 5-14 were examined; claims 1, 2, 5-14, were rejected under 35 U.S.C. § 102(e) as

being unpatentable over Johnston, Jr. et al., (U.S. Pat. No. 6,104,391, hereinafter "Johnston"). Applicants

respectfully request the Examiner reconsider the finality of the Office Action and the rejections in light of

the arguments presented below.

Improper Final Office Action

Applicants believe that the claims were not properly finally rejected direct the Examiner's

attention to the Manual of Patent Examining Procedure (MPEP), 8th Edition as revised May 2004

706.07(b), which states the following:

> However, it would not be proper to make final a
> first Office action in a continuing or substitute appli-
> cation where that application contains material which
> was presented in the earlier application after final
> rejection or closing of prosecution but was denied
> entry because (A) new issues were raised that required
> further consideration and/or search, or (B) the issue of
> new matter was raised.

Applicants note that the Examiner issued an Advisory Action in this case on June 10, 2004 where

the Examiner indicated that "The Proposed amendment(s) will not be entered because: ... they raise new

issues that would require further consideration and/or search)." In response, the Applicants filed a

Request for Continued Examination on July 12, 2004 to enter the proposed amendments. Therefore, the

Office Action is not properly final, and Applicant's respectfully request that the Examiner remove the

finality of the Office Action.

Claim Amendments

Applicants herein amend the claims to recite features that distinguish Applicants' claimed

invention from the prior art. Specifically, Applicants herein amend claims 1 and 10 to include the

application to distinguish it from either the graphical component library and the appearance manager.

Support for this amendment can be found in the application on page 27, line 22 to page 28, line 13 and in

FIG. 4, among other locations.

Applicants further amend claims 5 and 10 to positively recite that the appearance manager, not

the graphical component library, performs the rendering as described in the application on page 27, line

22 to page 28, line 13 and in FIG. 4, among other locations.

Rejections Under 35 U.S.C. § 102(e)

The Examiner maintained his rejection of claims 1, 2, 5-14 under 35 U.S.C. § 102(e) as being

unpatentable over Johnston.

As a threshold matter, Applicants submit that Johnston's graphics subsystem and appearance

management layer interact in a completely different manner as the claimed invention. This is

understandable when you consider that Johnston's goal is to intercept all rendering calls from applications

and route them through a single appearance management layer and then to the same graphics subsystem,

regardless of whether the rendering request involves a theme. The Applicants' goal, on the other hand, is

to provide a system that uses a different graphical component library, either theme-aware or theme-

independent, as appropriate depending on the nature of each rendering request. In essence, where

Johnston provides a single appearance management layer to handle all rendering requests, Applicants

instead created a duplicative, multiple library system to allow backward compatibility with old graphical

component library systems, where the them-aware and theme-independent exist in tandem.

The Examiner argues that Johnston discloses a theme handle as a reference to a predetermined set

of appearance characteristics and provides several citations to Johnston to support this argument.

However, the Examiner further argues that Johnston discloses a theme handle as part of a render service request from a graphical component library to an appearance manager without providing any support for this contention in the reference. Applicants respectfully disagree with the Examiner's interpretation of how the various components in Johnston interact and believe that Johnston does not disclose issuing a theme handle as part of a render service request from a graphical component library to an appearance manager.

The Examiner seemed to argue that since Johnston uses a pattern lookup table in the rendering process, that Johnston must therefore disclose passing a theme handle from a graphical component library to an appearance manager. See, Final Office Action, page 2, line 20 to page 3, line 7 ("In addition, Johnson at col. 6 lines 5-8 suggests that the client (e.g. graphical component library) can instruct the graphics subsystem (56 as part of the appearance manager 40, see fig. 4) to render the appropriate color and/or pattern. Or, the client or application can command the appearance manager to draw an object using the identified pattern and/or color (see col. 5, lines 65-68). By this, it is clear that the theme handle (e.g., pattern table) serves as part of a render service request from a graphical component library (e.g., client or application 38), for the rendering command involves the drawing of objects based on the pattern or color of objects abstracted from the table."). Furthermore, the Examiner is equating the claimed graphical component library with Johnston's client or application 38. Both of these positions held by the Examiner are incorrect.

Taking the latter contention first, as discussed in previous responses the client or application 38 disclosed by Johnston is not a graphical component library. Johnston is very clear in his use of the term application as that term is commonly known and as not including any graphical components or drawing utilities, which instead are supplied by the operating system. See, Johnston Col .3, lines 28-35 ("This layer can be provided between all of the clients, e.g., applications, the end user, definition procedures, and the graphic subsystem which actually writes to the display. In this way, a level of abstraction is provided between the client and the system so that customization can be

facilitated without requiring the client to have a detailed knowledge of the interface environment, which may be constantly changing."). In fact, it is the purpose of Johnston and the present invention to provide a system for theme management that is application independent.

This distinction is very important as in both Johnston and the present invention, the render requests sent from the application to the operating system do not include any information related to themes, much less a theme handle as claimed herein. In order to clearly present this distinction between the application and Applicant's graphical component library and appearance manager, Applicants have amended the claims to specifically call out the application render request, which does not include any theme information and thereby distinguishing the application from the graphical component library and appearance manager.

Applicants further believe that Johnston does not disclose passing a theme handle as part of a render service request from a graphical component library to an appearance manager. Johnston, in fact discloses two completely different embodiments of a theme switching system. Johnston's main embodiment is a system in which rendering requests are routed through an appearance management layer and then to a graphics subsystem for rendering, wherein all theme management is handled in the appearance management layer. This embodiment (described in detail in col. 5,line 30 to col. 6 line 56, and summarized in col. 12 lines 1-5) uses the appearance management layer as a layer of abstraction between the application and the graphics subsystems, allowing theme changes to be introduced with changing either of the other two elements. Johnston's second embodiment (described in col. 12, lines 6-24) is specifically described as a system in which the client application makes a request to the appearance management layer for a "theme pattern" (as opposed to a theme handle) which is subsequently returned to the client application. Then the client makes a render request to the graphics subsystem that includes the theme pattern information (i.e. pattern data) returned to the client application. For convenience, Johnston, col. 12, lines 1-24 are provided below:

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Although the exemplary embodiment illustrated in FIG. 8 portrays the client as using drawing primitives to send commands through the appearance management layer to the graphic subsystem, other exemplary embodiments of the

5   present invention operate in a somewhat different fashion. According to this exemplary embodiment, the appearance management layer 40 does not command the graphic subsystem 56, but simply acts essentially as a pattern/color

10   database. For example, in the exemplary block diagram of FIG. 10, a get theme pattern command is sent to the appearance management layer 40, instead of the drawing primitive in FIG. 8. The appearance management layer

15   returns a pattern structure which can be rendered by the graphic subsystem in the currently implemented theme for the particular interface object or object part requested in the get theme pattern command, to the client which then sends its own command to the graphic subsystem to draw the

20   appropriate pattern and/or color on the desktop interface. This alternate exemplary embodiment also has the benefits described herein with respect to abstracting the pattern/color combination from the interface.

Therefore, as the above discussion shows, Johnston does not disclose passing a theme handle as part of a render service request from a graphical component library to an appearance manager. The closest Johnston comes to this is the alternative embodiment described above in which the appearance management layer returns the actual pattern structure (as opposed to a theme handle) to the client application and not to the graphical subsystem.

Conclusion

In light of the foregoing amendments and remarks, it is believed that the application is in condition for allowance and thus prompt allowance is respectfully solicited. It is further believed, in the event that the Examiner still objects to the form of one or more claims, that the finality of the Office Action should be withdrawn. Should the Examiner have any remaining questions, he is encouraged to

contact the undersigned attorney at the telephone number below to expeditiously resolve such concerns.

Please charge any additional fees or credit any overpayment to Deposit Account No. 13-2725.

Respectfully submitted,

10/8/04

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